



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,075	02/20/2004	John J. Graham	BTEC-001/04US	6277
23419 7590 12/29/2006 COOLEY GODWARD KRONISH LLP 3000 EL CAMINO REAL 5 PALO ALTO SQUARE PALO ALTO, CA 94306			EXAMINER VU, THONG H	
			ART UNIT	PAPER NUMBER
			2616	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/29/2006	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/783,075

Applicant(s)

GRAHAM, JOHN J.

Examiner

Thong H. Vu

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/04</u> . | 6) <input type="checkbox"/> Other: _____ |

1. Claims 1-5, 8-14 are pending. Claims 6-7 are cancelled.
2. This application claimed the priority on 12/31/1996.
3. The Amendments to the specification filed 8/22/03 has been entered the record.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-4 are rejected on the ground of nonstatutory double patenting over claims 1-7 of U. S. Patent No. 6,732,183 B1 ('183) since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows:

('183) 1. A system for providing streaming media to a plurality of clients over a network, the system comprising:

Art Unit: 2142

a plurality of streaming media sources coupled to the network; a network server module that couples to the plurality of clients to signal streaming media from at least a first streaming media source in the plurality of streaming media sources to each of the plurality of clients using a first channel;

a switching terminal to signal a switch request to the network server module, the switch request requesting streaming media from a second streaming media source in the plurality of streaming media sources; and

a proxy module that forwards streaming media from the first streaming media source to the network server module, the proxy module being communicable with the network server module to be signaled the switch request, and in response to the switch request, the proxy module forwarding streaming media from the second streaming media source to the network server module to facilitate seamless transition on the first channel from the first streaming media source to the second streaming media source.

(Applcation) 1. A proxy that forwards streaming media from a first streaming media source to the network server module, the proxy being communicable with the network server module to be signaled the switch request requesting streaming media from a second streaming media source, and in response to the switch request, the proxy forwarding streaming media from the second streaming media source to the network server module to facilitate seamless transition from the first streaming media source to the second streaming media source.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Arndt et al [Arndt 5,708,654].

5. As per claim 8, Arndt discloses a computer system for providing streaming media to a plurality of clients over a network, the system comprising:

a proxy that forwards streaming media from a first streaming media source to a network server module that is communicating to the plurality of client terminals [Arndt, a router running proxy ARP, col 4 lines 20-36, a server, col 6 lines 21-30, client 1,2,3, Fig 4] the proxy being communicable with the network server module to be signaled a switch request, and in response to the switch request, the proxy forwarding streaming media from a second streaming media source to the network server module [Arndt, a router forward the request to the remote or second host, col 8 lines 30-44] while the network server module is signaling streaming media from the first streaming media source to the plurality of client terminals [Arndt, the client received the streaming media via the router, server in transparent fashion, col 2 lines 49-60].

6. As per claim 9, Arndt discloses a memory that stores streaming media forwarded from the proxy for the network server module, the network server module accessing the memory to receive the streaming media forwarded from the proxy [Arndt, a router running proxy ARP, col 4 lines 20-36, a server, col 6 lines 21-30, client 1,2,3, Fig 4].

7. As per claim 10, Arndt discloses the proxy forwards the streaming media from the second streaming media source to the network server module while the network server module is accessing the streaming media from the first streaming media source

Art Unit: 2142

from the memory [Arndt, a router forward the request to the remote or second host, col 8 lines 30-44].

8. As per claim 11, Arndt discloses a plurality of streaming media sources coupled to the network each include a proxy to receive streaming media from other streaming media sources to facilitate large scale proxy streaming media delivery [Arndt, multiple routers, col 11 lines 13-20].

9. As per claim 12 Arndt discloses A method for providing streaming media to a plurality of clients over a network, comprising:

at a proxy, receiving a switch request requesting streaming media from a second streaming media source [Arndt, a router forwards a proxy ARP request /reply to and from the remote or second host, col 12 lines 28-44]; and

in response to said switch request, the proxy forwarding streaming media from the second streaming media source to a network server module to facilitate seamless transition on a channel from a first streaming media source to the second streaming media source [Arndt, the client received the streaming media in transparent fashion, col 2 lines 49-60].

10. Claims 13 and 14 contain the identical limitations set forth in claim 12. Thus claims 13-14 are rejected for the same rationale set forth in claim 12.

Art Unit: 2142

11. As per claim 1 Arndt discloses A system for providing streaming media to a plurality of clients over a network, the system comprising:

a proxy that forwards streaming media from a first streaming media source to a network server module, the proxy being communicable with the network server module to be signaled a switch request requesting streaming media from a second streaming media source [Arndt, a router running proxy ARP, col 4 lines 20-36, a server, col 6 lines 21-30, client 1,2,3, Fig 4], and in response to the switch request, the proxy forwarding streaming media from the second streaming media source to the network server module to facilitate seamless transition from the first streaming media source to the second streaming media source [Arndt, a router employed a proxy function and forwarding the request to the remote or second host in a transparent fashion, col 2 lines 50-60].

12. Claims 2-5 contain the identical limitations set forth in claims 9-11. Thus claims 2-5 are rejected for the same rationale set forth in claims 9-11.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Brandt et al [Brandt 6,125,384].

13. As per claim 8, Brandt discloses a computer system for providing streaming media to a plurality of clients over a network, the system comprising:

a proxy that forwards streaming media from a first streaming media source to a network server module that is communicating to the plurality of client terminals [Brandt, the client 210, server 222, gateway or proxy 223, Fig 5] the proxy being communicable with the network server module to be signaled a switch request, and in response to the switch request, the proxy forwarding streaming media from a second streaming media source to the network server module [Brandt, a second source or software application 342, Fig 3 or remote system, col 8 lines 51-59] while the network server module is signaling streaming media from the first streaming media source to the plurality of client terminals [Brandt, transparent or seamless, col 8 lines 30-50] .

14. As per claim 9, Brandt discloses a memory that stores streaming media forwarded from the proxy for the network server module, the network server module accessing the memory to receive the streaming media forwarded from the proxy [Brandt, the gateway routing or forwarding data to client, col 25 lines 1-10].

15. As per claim 10, Brandt discloses the proxy forwards the streaming media from the second streaming media source to the network server module while the network

server module is accessing the streaming media from the first streaming media source from the memory [Brandt, Web server, Fig 3].

16. As per claim 11, Brandt discloses a plurality of streaming media sources coupled to the network each include a proxy to receive streaming media from other streaming media sources to facilitate large scale proxy streaming media delivery [Brandt, Internet gateway, Fig 3].

17. Claims 12-14 contain the identical limitations set forth in claim 8. Thus claims 12-14 are rejected for the same rationale set forth in claim 8.

18. As per claim 1 Brandt discloses A system for providing streaming media to a plurality of clients over a network, the system comprising:

a proxy that forwards streaming media from a first streaming media source to a network server module [Brandt, the client 210, server 222, gateway or proxy 223, Fig 5], the proxy being communicable with the network server module to be signaled a switch request requesting streaming media from a second streaming media source [Brandt, a second source or software application 342, Fig 3 or remote system, col 8 lines 51-59], and in response to the switch request, the proxy forwarding streaming media from the second streaming media source to the network server module to facilitate seamless transition from the first streaming media source to the second streaming media source [Brandt, a transparent client interface, col 8 lines 30-50].

Art Unit: 2616

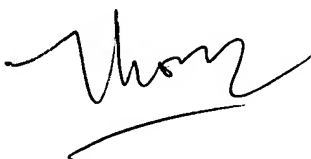
19. Claims 2-5 contain the identical limitations set forth in claims 9-11. Thus claims 2-5 are rejected for the same rationale set forth in claims 9-11.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Thong Vu*, whose telephone number is (571)-272-3333. The examiner can normally be reached on Monday-Thursday from 6:00AM- 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Failed Lynn*, can be reached at (571) 272-2092. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Thong Vu
Primary Examiner
Art Unit 2616



THONG VU
PRIMARY EXAMINER
TECHNOLOGY CENTER 2100